

GAO

Testimony

Before the Committee on Banking, Finance and Urban Affairs,  
House of Representatives

For Release on Delivery  
Expected at  
9:30 a.m. EDT  
Friday  
May 29, 1992

# AGRICULTURE'S EXPORT CREDIT PROGRAMS

## Delays in Accessing Records Relating to Iraq

Statement of Allan I. Mendelowitz  
Director, International Trade and Finance Issues  
General Government Division



05-100, 146760

Mr. Chairman and Members of the Committee:

We are here today to discuss our efforts to obtain information and documents concerning our ongoing reviews of the Atlanta operations of the Banca Nazionale Del Lavoro (BNL) and Iraq's participation in the Commodity Credit Corporation's (CCC) General Sales Manager (GSM) 102 and 103 export credit guarantee programs.<sup>1</sup> We are performing our reviews at the request of this Committee as well as others in the Congress. As I will describe later, our work has been delayed significantly due to the reluctance of some government agencies to provide us with timely and complete access to the information we require.

GAO's basic authority to access records is contained in 31 U.S.C. 716. This statute grants GAO access to executive agency records for the purpose of conducting GAO's audits and evaluations. Generally, we do not encounter problems in accessing records in the course of most of our work. However, this was not the case in conducting our ongoing reviews of Iraq's participation in the CCC's export credit guarantee programs and issues involving the Banca Nazionale Del Lavoro. We have recognized from the outset that the work requested of us concerns issues of considerable sensitivity, some involving alleged illegal activity. However, in such instances, it is always our policy to avoid interfering with

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<sup>1</sup>The Banca Nazionale Del Lavoro is a bank that is largely owned by the Italian government. The Atlanta operation made almost \$1 billion in CCC-guaranteed loans to Iraq without higher level bank authorization. Iraq has defaulted on almost \$350 million of these CCC-guaranteed loans.

ongoing criminal investigations. Furthermore, we have procedures in place to protect classified and confidential information.

Nevertheless, we have not received full cooperation from the agencies from which we have sought information. In April 1991 White House Legal Adviser Nicholas Rostow convened meetings consisting of representatives from the general counsels of a number of executive branch agencies. The meetings were held to determine how the agencies should respond to congressional requests for information and documents pertaining to U.S.-Iraq policy prior to August 2, 1990.<sup>2</sup> Procedures were established whereby the agencies' general counsels would review all such requests, requesters would be permitted only to read some documents rather than receive copies, and alternatives to providing documents would be explored. In addition, Treasury reported at one of the Rostow group meetings that it was not even permitting the taking of notes on the contents of classified documents.

Our experiences at the agencies were consistent with the results of these meetings. Typically, GAO works with program officials in identifying and obtaining records relevant to our reviews. However, during our BNL and export credit guarantee reviews, different procedures were adopted. At most of the agencies at which we were conducting work, we were instructed to direct our requests for information to the agencies' general counsel offices.

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<sup>2</sup>On August 2, 1990, Iraqi forces invaded Kuwait.

Some of the experiences we encountered at the various agencies include the following:

--Generally, the Department of Agriculture (USDA) has cooperated with our requests for access to its records. However, there was one issue about which we had problems in obtaining timely information. We were not permitted to review the workpapers supporting USDA's May 1990 Administrative Review of the GSM programs until we had submitted several oral and written requests. This process created a delay of about 5 months.

--We also faced considerable delay in meeting with officials and obtaining access to documents at the Department of Justice. We requested all Justice Department correspondence with other agencies on the BNL matter and all other relevant documents. To date we have only been allowed to review five documents. Furthermore, we were not allowed to either photocopy the documents or take extensive notes. This limited access to documents cannot be considered sufficient for audit purposes.

--At the State Department the Office of the Legal Adviser explained that it was concerned about grand jury secrecy rules and would, therefore, screen all documents we requested to avoid inappropriate disclosure. The Office

of the Legal Adviser at State permitted us to read and take notes from, but not copy, 26 cables that were determined by that office to be both relevant to our review and not related to the grand jury investigation of BNL. The Office of the Legal Adviser informed us that there were other documents, but that the office was withholding them from us because they contained information that might be covered by grand jury secrecy rules. Despite the fact that the Assistant U.S. Attorney handling the BNL case had informed us that documents not in her possession are not subject to secrecy rules, State advised us to get clearance from the Justice Department to gain access to these documents. We have asked Justice for this clearance and the matter is still under consideration at this time.

Furthermore, we were not able to determine for ourselves which cables were relevant. This fact is particularly troublesome in light of Deputy Secretary of State Eagleburger's testimony before this Committee last week in which the Deputy Secretary stated that over 4,000 documents relating to Iraq had been turned over to the Committee. The State Department never informed us of the existence of this vast amount of documents.

--In December 1991 we visited Rome to meet with BNL and U.S. embassy officials. That trip was coordinated with and

approved by the State Department. In notifying the embassy of our visit, the State Department cable reminded the embassy that it is the Department's policy to be of assistance to GAO and to be as helpful as possible. Nevertheless, the U.S. embassy refused to give us access to its files on the BNL/Atlanta issue. We met with the Deputy Chief of Mission, who told us that he had not been instructed by Washington on how to respond to our request to review documents. He said he believed that all requests for documents were being coordinated in Washington. He said that in any case, the embassy would have limited information because its only efforts in the BNL matter had been to monitor Italian press reports. Subsequently, we learned that more substantive reports on the issue had been prepared and transmitted by the embassy to the Department of State in Washington.

--The Department of the Treasury did not permit us to photocopy any of the minutes from the meetings of the National Advisory Council on International Monetary and Financial Policies during which interagency discussions about the export credit guarantee programs for Iraq took place. Some of those minutes were classified. In those cases, we were not permitted to take notes either. The minutes in question covered almost a decade and included a substantial amount of material. It is not reasonable to expect that GAO could adequately review, analyze, and

report on such a substantial body of information on the basis of the auditors' memory, supplemented by limited notes. In addition, Treasury has still not complied with our outstanding request for relevant correspondence.

--The Central Intelligence Agency (CIA) has given a briefing on BNL to House Banking Committee staff. We asked CIA for a similar briefing, but officials told us to obtain the information from the House Banking Committee since it requested us to conduct our review. We asked CIA to reconsider its denial because (1) the House Banking Committee is only one of several requesters of this work and (2) GAO's policy is to conduct its work independently of congressional committees, even when the committees are our requesters. We were recently told that our request is being reconsidered and that no determination has been made yet.

In summary, Mr. Chairman, our principal concern is with the delay that we have experienced in resolving these issues. This problem was particularly acute in this instance given the number of agencies involved. We are committed to providing Congress with the information it needs in as timely a manner as possible. Our ability to do so can be frustrated when--as here--we have less than the full cooperation of the executive agencies.

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Mr. Chairman and Members of the Committee, this concludes my prepared statement. I would be pleased to respond to any questions you may have.

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